MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2015/2016

BAC4644 – ADVANCED TAXATION

(All sections / Groups)

30 MAY 2016
9.00 AM to 12.00 PM
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. This Question paper consists of 10 (ten) pages (including the cover page) with FIVE (5) questions only.

2. Attempt **ALL** questions. The distribution of the marks for each question is given.

3. Please print all your answers in the Answer Booklet provided.

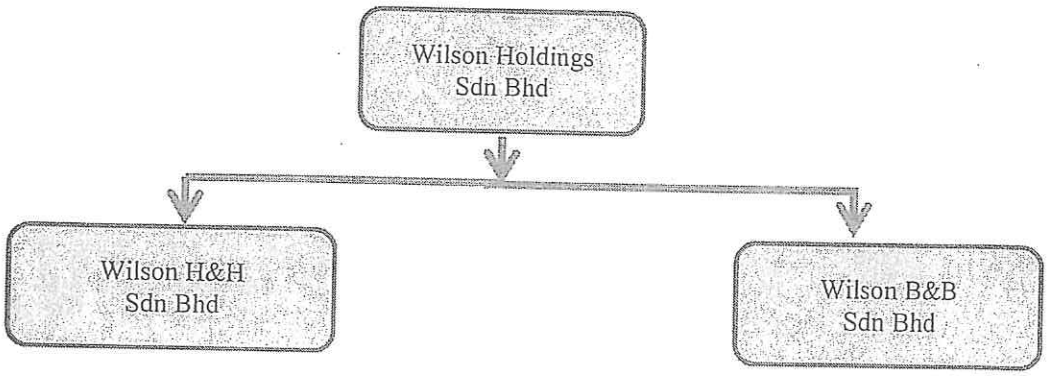
QUESTION 1 (20 marks)

(a) In the context of the Income Tax Act 1967 (as amended), explain briefly what do you understand by 'Tax Planning', including the extent and limits to which the planning can be carried out.

(4 marks)

(b) Wilson Holdings Sdn Bhd is a holding company with two wholly owned subsidiaries: Wilson H&H Sdn Bhd and Wilson B&B Sdn Bhd (see Figure 1).

Figure 1: The existing company structure



The companies have been in business for several years – and all close the accounts to 31 December each year.

The company business operations are as follows:

- Wilson Holdings Sdn Bhd operates several outlets for groceries and household goods.
- Wilson H&H Sdn Bhd is involved in the distribution of a herbal health drink patented in India.
- Wilson B&B Sdn Bhd operates a four star hotel in Kajang providing bed and breakfast services.

The group plans to restructure and expand the business operations, and at a recent Board of Directors meeting in March 2016, several matters were discussed, including the proposed corporate structure (see Figure 2), raising of additional capital and business expansion.

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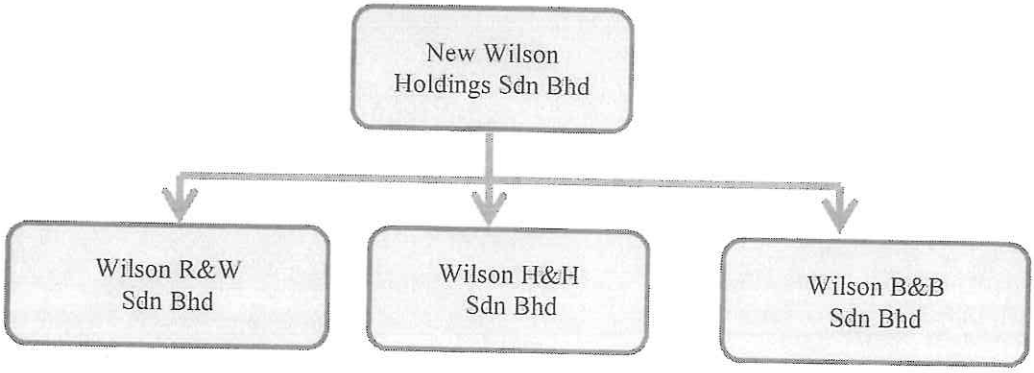
Figure 2: Proposed company structure



- The Board agreed that the restructuring and expansion would need RM300 million additional capital, which could be raised as follows:
    - through a bank loan;
    - a loan from the directors; or
    - by the issue of additional shares to the existing shareholders.

- It would incorporate a company, New Wilson Holdings Sdn Bhd ("New Wilson") to be the new holding company and the existing companies would be placed under it with direct share controls. New Wilson will derive its income mainly from the holding of investments in these subsidiaries.

- Wilson Holdings Sdn Bhd will be renamed as Wilson R&W Sdn Bhd (Wilson R&W). It will essentially carry on the retail business, including a warehousing activity. The existing retail outlets would be renovated to include new lighting system, furniture and fitting, cooling system and plant and machinery. Additional motor vehicles would be acquired for the distribution activities.

- Wilson H&H Sdn Bhd (Wilson H&H) will continue to distribute the patented herbal drink from India. In addition, it will look for opportunities for the distribution of other branded or patented health drinks and health foods from China and Japan.

- Wilson B&B Sdn Bhd (Wilson B&B) would acquire additional buildings near bus terminals and provide cheap accommodation with bed and breakfast for overnight travelers. The hotel, including those that will be acquired, will be renovated to include new lighting system, furniture and fitting, cooling system and plant and machinery. The Board plans to acquire additional motor vehicles for hub services for guests of the hotel.

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- The board had discussed the acquisition of new lighting system, furniture and fitting, cooling system, plant and machinery and the motor vehicles (vans and mini lorries) mentioned above, and considered the following options to finance them:
    - Using an operating lease;
    - Using a financial lease;
    - Using a hire purchase mode; or
    - Cash purchase using funds obtained from the additional capital raised

However, the Board has not decided which of the option they would choose but had indicated its plan to you and had sought your advice from an income tax point of view.

Required:

Based on the information supplied and with reference to the Income Tax Act 1967 (as amended) advise the Board of Directors on the following matters:

(i) Issues relating to the raising of the additional capital; and
(ii) The choice of financing the capital expenditure to be incurred on the new lighting system, furniture and fitting, cooling system, plant and machinery and the motor vehicles.

(10 marks)

(c) Power Battery Sdn Bhd ('Power Battery') is a Malaysian resident company that manufactures batteries for use in motor vehicles and power equipment. It recently ventured into the manufacture of a new type of battery with unproven technology (but having a high potential) and incurred heavy losses. As a result, it has unabsorbed losses of RM5 million and unabsorbed capital allowances of RM2 million brought forward to the year of assessment 2015.

Power Products Sdn Bhd ('Power Products') is a local Malaysian company and its holding company is Power Management Plc of India, a company incorporated and resident in India. Power Products, with the business and financial support of Power Management plc is interested in acquiring Power Battery. During the last round of negotiation in April 2016, it was agreed that Power Products would acquire the entire paid up shares of Power Battery for a consideration of RM15 million ('the acquisition').

At a recent Board Meeting of Power Products, it was announced that the money for the acquisition would be funded as follows:

- RM10 million would be advanced by Power Management plc of India at an interest rate of 15% per annum; and

- RM5 million borrowings from a local bank at an interest rate of 4% under a special scheme supported by the Malaysian government for funding innovative ventures.

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Required:

(i) Identify the transfer pricing issues (if any);
(ii) Explain how it will be viewed by the Malaysian revenue authorities; and
(iii) Explain how this could be resolved in favour of the taxpayer.

(6 marks)

[Total: 20 marks]

QUESTION 2 (20 marks)

(a) Yamuna REIT ('the REIT') is a real estate investment trust that was incorporated and commenced business on 1 January 2012 with a paid up capital of RM5 million. It made up the accounts to 31 December each year. The REIT derives rental income from shop lots and factories. The factories are used for manufacturing activities by the tenants. The income statement of the REIT for the year ended 31 December 2015 is appended below:

Yamuna REIT
Income Statement for the year ended 31 Dec 2015

	RM'000	RM'000
Rent from shop lots		8,960
Rent from factories		56
Interest		25
Dividends (Malaysian single tier)		11
Total gross income		9,052
Less: Expenditure		
Audit fee	22	
Depreciation	28	
Management fee	900	
Property maintenance charges	884	
Secretarial fee	6	
Trustee administration fee	39	
Other expenses	700	2,579
Net profit		6,473

The accountant for the REIT has informed you that the 'other expenses' shown in the income statement are revenue expenses incurred within the meaning of section 33 in the course of carrying the business; and that the

REIT is entitled to capital allowance of RM490,000 on assets used in the business during the year. During the year the REIT distributed RM4,800,000 to the unit holders.

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Required:

(i) Compute the tax payable for Yamuna REIT for the year of assessment 2015.

(ii) What is the tax payable if Yamuna REIT distributed to the unit holders RM5,700,000 million of the profits for the year of assessment 2015?

Note: The applicable corporate tax rate for the year of assessment is 25%.

(10 marks)

(b) Muthu Holdings Sdn Bhd ('the company') is a Malaysian resident investment holding company deriving income consisting mainly of interest and rent and some occasional gains from the disposal of investments. It was incorporated with a paid up capital of RM3 million in 2010 and for the year ended 31 December 2015, the company has investments consisting of the following portfolios:

Investments portfolio	**Cost (RM)**
Shop lots	1,000,000
Investment 1 - shares	2,000,000
Investment 2 - shares	800,000
Total	3,800,000

The shop lots are let out to produce rental income. The investments in shares are in Malaysian companies quoted on the local Malaysian Stock Exchange (*Bursa Malaysia*) that declare single tier dividends. The statement of income for the year ended 31 December 2015 showed the following results:

Muthu Holdings Sdn Bhd
Statement of income for the year ended 31 December 2015

Income	RM	RM
Fixed deposit interest		79,000
Rent – shop lot		65,000
Dividends (single tier)		
Investment 1	230,000	
Investment 2	96,000	326,000
Gains from realization of investment		97,000
		567,000
Less: Expenses		
Director's remuneration	72,000	
Staff salary	43,295	
Accounting and secretarial fees	14,434	
Audit fees	28,862	
Interest (on loan for portfolio investments)	58,000	
Printing and stationary	2,886	
Management expenses	40,406	
Office rent	72,000	

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Quit rent and assessment (shop lots)	2,886	
Entertainment	4,328	
Depreciation	7,000	346,097
Net profit		220,903

Required:

Compute the chargeable income of Muthu Holdings Sdn Bhd for the year of assessment 2015.

(10 marks)
[Total: 20 marks]

QUESTION 3 (20 marks)

(a) Global Marine Lines plc ('the company') is a non-resident shipping company, carrying on the business of transporting cargo by sea. During the year 2015, the company earned a gross income of RM1,200,000 from cargo loaded at Malaysian ports. Also, in 2015, the company donated RM5,000 to an approved Malaysian charitable institution.

In the year 2016 the company produced a certificate from the revenue authorities of its country of residence (acceptable to the Director General of the Inland Revenue of Malaysia) which certified the following information:

Acceptable Ratio Certificate
Period: 1 January 2015 to 31 December 2015

	RM equivalent
(1) Gross world income	4,600,000
(2) Adjusted world income	3,120,000
(3) World capital allowance	780,000
(4) Gross income derived from Malaysia	1,200,000

Malaysia has a double tax agreement with the country where the shipping company is resident. Under the said agreement , shipping income derived and charged to tax in the other country is entitled to a double tax relief of 50% on the tax charged.

Required:

Compute the tax payable of Global Marine Lines Plc for the year of assessment 2015 under the following methods:

(i) The 5% method
(ii) The Acceptable Ratio Certificate Method.

Note: The applicable Malaysian corporate tax rate for the year of assessment 2015 is 25%

(12 marks)

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(b) With reference to the Income Tax Act 1967 (as amended) and decided case laws, explain the concept of 'Mutuality' and discuss its implications in the context of the taxation of a club carrying on activities solely for the benefit of its member's interest.

(8 marks)

QUESTION 4 (20)

[Total: 20 marks]

(a) Mr. Michael Tan died sometime in April 2014 in a road accident. He left behind a wife, Madam Tan and four children. He had a will that named his wife as the executor, and his four children as the beneficiaries.

The will provided for Madam Tan to carry on his fruit business after his death. Under the will, the payment to the first child would be one quarter of the distributable income of the trust, and is to be paid at the discretion of the executor; the sum paid to the second and third child shall be one half of the balance of the distributable income after accumulation for the fourth child, a girl who was only four years old in 2015. Madam Tan would be entitled to RM50,000 annuity per year.

Madam Tan made the following payments from the trust for the year ended 31 December 2015:

	Recipients	**Amount (RM)**
1	Annuity	50,000
2	First child	75,579
3	Second child	113,368
4	Third child	113,368
5	Fourth child (sum accumulated)	25,000

The trust received investment income during the year ended 31 December 2015 details of which are as follows:

	Particulars	**Amount (RM)**
1	Rent from a property in Malaysia	19,200
2	Interest from a fixed deposit in a local bank	5,238
3	Dividends (Malaysia)(single tier)	8,712
4	Dividend (Singapore)(remitted in 2015)	12,398

Legal fee of RM4,800 was incurred to settle a third party claims in connection with the trust. A lump sum payment of RM60,000 was made to settle the claim out of court.

Madam Tan is a qualified accountant and charged a management fee of RM28,000 for managing the trust during the year. Also, during the year, the trust made the following donations:

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(i) Food packages valued at RM4,000 to a charity home during Chinese New Year celebrations; and
(ii) Cash donation of RM5,000 to an approved charitable institution.

These expenditure were charged to the trust business account under 'Expenses' and except for these charges, the tax agent has confirmed that the balance of the other expenses are wholly and exclusively incurred for the purposes of the business carried on by the trust. For the year of assessment 2015, the trust is entitled to a capital allowance of RM57,218 and balancing allowance of RM28,608. It has a balancing charge of RM18,991.

The trust business has a loss brought forward to the year of assessment 2015 amounting to RM7,200 and also an unabsorbed capital allowance brought forward of RM60,862.

The trust business income for the financial year ended 31 December 2015 was as follows:

	RM
Gross income from business	667,949
Less: Expenses	286,086
Net profit	381,863

The trust distributable income for the year ended 31 December 2015 after accumulation for the fourth child was RM302,315.

Required:

Compute the chargeable income of the trust and the beneficiary's share of the trust total income for the year of assessment 2015, assuming section 61 (2) is applied.

(10 marks)

(b) Mr. George Tan is a qualified Chartered Surveyor. He was a Malaysian resident and had three businesses – two in Malaysia and one in Singapore. He passed away suddenly on 30 September 2015. He had not prepared a will. The businesses close the accounts to 31 December each year. For the year ended 31 December 2015, the trading results according to the tax agent were as follows:

Business		**RM**
Business 1 (Malaysia)	Adjusted income	95,000
Business 2 (Malaysia)	Adjusted loss	(38,750)
Business 3 (Singapore)	Adjusted income	15,847

Business 2 ceased operations in June 2015. Mr. George Tan had made some investments and the income details are as follows:

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Particulars	RM
Rental (year ended 31 Dec 2015)	18,000
Dividend (Malaysian single tier paid in October 2015)	9,317
Interest (received in May 2015)	3,993

Mr. George Tan, who was domiciled at the time of his death, left behind a wife and a child aged 10 years old in 2015. The estate paid an annuity of RM10,000 to the wife and was wound up at the end of 2015. A final distribution of RM200,000 made to the wife and the child of the deceased.

Required:

Compute the chargeable income for the year of assessment 2015 for:

(i) Mr. George Tan (Assume that the wife and child reliefs of RM3,000 and RM1,000 respectively were claimed by him);

(ii) The estate of Mr. George Tan (deceased).

(10 marks)

[Total: 20 marks]

QUESTION 5 (20 marks)

(a) Kajang Properties Sdn Bhd ('the company') is a local property developer. It recently ventured into a condominium project in Sungei Chua. The Chief Accountant of the company is not clear on certain tax matters pertaining to property development, and has approached you with the following questions:

(i) How do you determine on the date of commencement of a property development business?

(ii) How do you allocate the common infrastructure costs to the development?

(iii) How do you determine the date of completion of a project?

Required:

With reference to the Income Tax Act 1967 (as amended) and the Income Tax (Property Development) Regulations 2015, advise the Chief Accountant on the above matters raised and its significance for taxation purposes.

(6 marks)

(b) With reference to the Goods and Services Tax Act 2014 (as amended) state three types of supplies and its implications for input tax and output tax.

(9 marks)

(c) Under the Customs Duties Order 2012, every goods must be classified and coded.

Required:

With reference to the Customs Act 1937 (as amended) and the Customs Duties Order 2012, explain why this classification and coding of goods is important.

(5 marks)

[Total: 20 marks]

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